

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

FUSION ELITE ALL STARS, et al.,  Plaintiffs,  v.  VARSITY BRANDS, LLC, et al.,  Defendants.	Case No. 2:20-cv-02600-SHL-cgc  <b>Jury Trial Demanded</b>
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**MOTION TO AMEND ORDER GRANTING JOINT MOTION TO CONSOLIDATE  
UNDER FED. R. CIV. P. 42 AND JOINT MOTION FOR ENTRY OF CASE  
MANAGEMENT ORDER NO. 1**

The undersigned counsel respectfully move this Court for an Order amending its Order Granting Joint Motion to Consolidate Under Fed. R. Civ. P. 42 and Joint Motion for Entry of Case Management Order No. 1 appointing leadership for the proposed direct purchaser class (“Leadership Order”) to substitute DiCello Levitt Gutzler for Labaton Sucharow LLP (“Labaton”), which was appointed Interim Co-Lead Counsel for the proposed class of direct purchaser plaintiffs by the Court on September 18, 2020. (ECF No. 37).

Since that time, and indeed since the inception of the action, Karin E. Garvey has led and managed the case for her firm on a day-to-day basis, overseeing her firm’s litigation team and working closely and effectively with the other co-lead counsel. She has been intimately involved in all aspects of this litigation, diligently fulfilling the duties and responsibilities described and authorized by the Court in its Leadership Order. Ms. Garvey is completely familiar with all of the law, facts, and issues of the case.

On March 7, 2022, Ms. Garvey joined the law firm DiCello Levitt Gutzler as a partner.<sup>1</sup> Ms. Garvey now respectfully moves to amend the Leadership Order to reflect her new firm affiliation. This motion is supported by Interim Co-Lead Counsel Berger Montague PC, Cuneo Gilbert & Laduca, LLP, Liaison Counsel Branstetter, Stranch & Jenings PLLC. It is also supported by my former firm, Labaton, as well as the plaintiffs with whom Labaton filed their original case, Kathryn Radek, Janine Cherasaro, and Lauren Hayes. Additionally, the other attorneys principally working on the case, Gregory Asciolla and Veronica Bosco, are also joining DiCello Levitt and plan to continue to work on this litigation. Thus, Ms. Garvey and DiCello Levitt, together with her established team and based on their demonstrated commitment to the case, will continue to fulfill their responsibilities and obligations in the best interests of the proposed Direct Purchaser Class as Interim Co-lead Counsel.

For these reasons, counsel respectfully request that this Court amend its Leadership Order to substitute Dicello Levitt Gutzler as Interim Co-Lead Counsel in place of Labaton.

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<sup>1</sup> For additional information about DiCello Levitt Gutzler, see <https://dicellolevitt.com>.

Dated: March 7, 2022

Respectfully submitted,

/s/ Karin E. Garvey

Karin E. Garvey

Gregory S. Asciolla

Veronica Bosco

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**CERTIFICATE OF CONSULTATION**

Counsel for Plaintiffs hereby certify that they consulted with Steven Kaiser and Nicole Berkowitz, counsel for Defendants, on March 3, 2022, via phone and electronic mail, respectively, to determine whether Defendants oppose the relief sought in this Motion. Defendants' counsel stated that Defendants do not oppose the relief requested in this Motion.

/s/ Karin E. Garvey  
Karin E. Garvey